

# Breathe Easier Alliance of Alabama (BEAA)



The Breathe Easier Alliance of Alabama is an advocacy group focused on legislation affecting tobacco harm reduction for adults via personal vaporizers which are shown to reduce the morbidity and mortality associated with smoking.

# Who We Are

- BEAA membership is comprised of responsible business owners who understand that exceptional accountability and high standards are vital to gaining acceptance of those who believe the industry is driven or influenced by big tobacco.
- The vaping industry in Alabama is comprised of over 300 small businesses that employ over 2000 people, all while facilitating a reduced-harm alternative for millions of tobacco users.
- BEAA members alone include well over 50 small vape related businesses, employing over 250 employees utilizing some 50,000 square feet of retail space with taxable sales totaling over \$25,000,000.00.
- The vapor products industry is the epitome of the American Dream; We are not huge corporations with endless resources. I as well as many others have risked our homes, retirement and everything that we have for a chance at the American Dream. We are the entrepreneurs and visionaries on which this industry has thrived. We work seventy and eighty hours a week for something we feel passionately about. We have grown organically and become a vibrant and multibillion-dollar industry that constantly strives to be more and more creative and innovative in tobacco harm reduction.

# Pre-Market Tobacco Approval Application Process

- The FDA has estimated the cost of applying for a Pre-Market Tobacco Approval for each vapor product at 5,000 hours and \$333,554.
- These estimates are also totally unrealistic, as experts estimate the actual cost of completing an application to be more like \$3.3 million, and could be more like \$33 million per SKU.
- The cost alone will preclude any small or even reasonable sized company from applying thus leaving the market wide open to big tobacco and effectively decimating the small business owners.
- The FDA has openly admitted that the proposed rule would have a significant economic impact on "small entities". At no time do they appear to consider the benefits these small businesses bring to their communities by way of employment, sales tax, retail space rental and most importantly offering a better alternative to combustible cigarettes.

Table 1 Smokers Represent Significantly Larger Proportion of Medicaid Recipients than General Population 2011									
State	Percent Smokers in General Population	Medicaid Enrollment	Number of Smokers on Medicaid						
United States	51%	68,372,045	36,481,209						
Alabama	52%	933,313	487,923						
Alaska	22.9%	135,059	91,840						
Arizona	49%	1,959,470	974,840						
Arkansas	54%	777,833	420,030						
California	43%	11,500,533	5,172,252						
Colorado	61%	733,145	447,342						
Connecticut	49%	729,294	357,354						
Delaware	58%	223,225	129,471						
Florida	46%	3,829,173	1,761,420						
Georgia	42%	1,915,269	808,613						
Hawaii	62%	313,629	194,450						
Idaho	62%	409,146	253,863						
Illinois	38%	2,900,614	1,452,356						
Indiana	48%	1,308,207	821,581						
Iowa	61%	544,620	331,316						
Kansas	54%	363,755	196,128						
Kentucky	65%	1,065,840	692,736						
Louisiana	43%	1,933,869	956,364						
Maine	63%	357,531	206,340						
Maryland	51%	1,003,948	511,609						
Massachusetts	32%	1,504,611	797,444						
Michigan	64%	2,265,277	1,449,777						
Minnesota	52%	989,600	534,354						
Mississippi	38%	775,314	271,346						
Missouri	66%	1,136,305	743,493						
Montana	70%	136,442	95,509						
Nebraska	60%	384,000	181,760						
Nevada	62%	363,357	225,381						
New Hampshire	89%	182,152	121,746						
New Jersey	36%	1,304,237	469,533						
New Mexico	30%	571,621	255,811						
New York	34%	5,421,232	2,927,465						
North Carolina	63%	1,592,541	1,192,391						
North Dakota	63%	85,094	53,609						
Ohio	55%	2,326,533	1,642,346						
Oklahoma	58%	852,603	494,510						
Oregon	67%	590,364	462,544						
Pennsylvania	70%	2,443,909	1,707,736						
Rhode Island	48%	221,041	106,100						
South Carolina	41%	978,732	401,280						
South Dakota	69%	134,766	93,011						
Tennessee	58%	1,489,267	862,195						
Texas	43%	4,996,318	2,148,417						
Utah	54%	366,271	197,786						
Vermont	67%	184,088	123,339						
Virginia	58%	1,016,419	589,523						
Washington	67%	1,371,135	919,231						
West Virginia	67%	411,218	275,516						
Wisconsin	63%	1,292,299	814,465						
Wyoming	62%	76,372	47,351						
District of Columbia	51%	255,653	120,159						
Source: Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, and State Budget Solutions									

Table 2 Comprehensive Costs of Smoking (Billions of Dollars) 2009									
State	Prevalence	Deaths	Lost Productivity	Workplace	Healthcare	Total	Smoking Costs	Total	Smoking Costs
United States	17.1	67.5	184.6	116.4	301.0	466.7	466.7	466.7	466.7
Alabama	2.7	1.2	3.9	1.7	5.6	4.2	4.2	4.2	4.2
Alaska	0.2	0.2	0.4	0.3	0.7	3.0	3.0	3.0	3.0
Arizona	1.9	1.3	5.2	1.9	5.1	14.3	14.3	14.3	14.3
Arkansas	1.7	0.7	2.4	1.1	3.4	4.5	4.5	4.5	4.5
California	9.6	3.7	13.2	11.6	26.9	53.5	53.5	53.5	53.5
Colorado	1.3	1.2	2.5	1.6	4.1	8.3	8.3	8.3	8.3
Connecticut	1.2	0.7	1.8	1.7	3.6	4.3	4.3	4.3	4.3
Delaware	0.4	0.2	0.6	0.4	1.1	1.6	1.6	1.6	1.6
District of Columbia	0.3	0.1	0.4	0.3	0.9	2.2	2.2	2.2	2.2
Florida	7.9	4.4	12.3	7.3	19.6	35.3	35.3	35.3	35.3
Georgia	3.7	2.4	6.2	2.9	9.0	16.4	16.4	16.4	16.4
Hawaii	0.4	0.2	0.7	0.4	1.1	2.0	2.0	2.0	2.0
Idaho	0.4	0.3	0.7	0.4	1.1	2.0	2.0	2.0	2.0
Illinois	3.0	2.9	7.9	4.6	12.7	11.2	11.2	11.2	11.2
Indiana	3.0	2.1	3.1	2.6	7.7	3.0	3.0	3.0	3.0
Iowa	1.2	0.7	1.9	1.1	3.0	3.0	3.0	3.0	3.0
Kansas	1.0	0.6	1.6	1.0	2.6	6.4	6.4	6.4	6.4
Kentucky	2.6	1.3	3.9	1.8	5.7	5.3	5.3	5.3	5.3
Louisiana	2.4	0.9	3.3	1.8	5.1	3.6	3.6	3.6	3.6
Maine	0.6	0.3	0.9	0.7	1.6	9.2	9.2	9.2	9.2
Maryland	2.1	1.3	3.4	2.2	5.6	14.2	14.2	14.2	14.2
Massachusetts	2.2	1.3	3.4	3.7	7.1	1.5	1.5	1.5	1.5
Michigan	4.5	2.4	7.0	4.0	11.0	9.7	9.7	9.7	9.7
Minnesota	1.5	1.3	3.0	2.3	5.4	4.2	4.2	4.2	4.2
Mississippi	1.6	0.7	2.4	1.0	3.5	1.7	1.7	1.7	1.7
Missouri	3.0	1.5	4.5	2.7	7.2	14.6	14.6	14.6	14.6
Montana	0.3	0.2	0.6	0.4	0.9	1.9	1.9	1.9	1.9
Nebraska	0.6	0.3	1.1	0.7	1.6	1.7	1.7	1.7	1.7
Nevada	1.1	0.7	1.7	0.9	2.6	1.7	1.7	1.7	1.7
New Hampshire	0.3	0.3	0.8	0.6	1.4	6.3	6.3	6.3	6.3
New Jersey	2.9	1.5	4.7	3.6	6.3	4.2	4.2	4.2	4.2
New Mexico	0.3	0.4	0.9	0.6	1.5	3.5	3.5	3.5	3.5
New York	6.9	3.9	10.8	9.5	20.6	1.3	1.3	1.3	1.3
North Carolina	4.1	2.2	6.3	3.4	9.7	5.9	5.9	5.9	5.9
North Dakota	0.2	0.2	0.4	0.3	0.7	2.1	2.1	2.1	2.1
Ohio	5.7	2.9	8.6	5.2	13.9	3.7	3.7	3.7	3.7
Oklahoma	2.1	0.9	3.0	1.3	4.3	6.6	6.6	6.6	6.6
Oregon	1.3	0.8	2.1	1.3	3.4	2.4	2.4	2.4	2.4
Pennsylvania	5.4	3.2	5.5	5.7	14.2	1.8	1.8	1.8	1.8
Rhode Island	0.4	0.2	0.7	0.6	1.3	3.3	3.3	3.3	3.3
South Carolina	2.3	1.0	3.3	1.6	4.9	1.8	1.8	1.8	1.8
South Dakota	0.3	0.2	0.5	0.3	0.8	9.6	9.6	9.6	9.6
Tennessee	3.6	1.7	5.3	2.6	7.9	3.1	3.1	3.1	3.1
Texas	7.9	4.9	12.8	7.6	20.4	2.6	2.6	2.6	2.6
Utah	0.4	0.3	0.7	0.4	1.1	2.0	2.0	2.0	2.0
Vermont	0.2	0.1	0.4	0.3	0.7	2.0	2.0	2.0	2.0
Virginia	2.9	2.0	4.5	2.7	7.3	1.6	1.6	1.6	1.6
Washington	2.1	1.3	3.4	2.4	5.7	3.0	3.0	3.0	3.0
West Virginia	1.1	0.5	1.6	0.9	2.5	9.3	9.3	9.3	9.3
Wisconsin	2.0	1.4	3.4	2.4	5.8	3.6	3.6	3.6	3.6
Wyoming	0.2	0.2	0.4	0.2	0.6	5.7	5.7	5.7	5.7
District of Columbia	0.2	0.2	0.4	0.2	0.6	5.7	5.7	5.7	5.7
Source: See Endnote 6 and State Budget Solutions									
Table 3 Smoking Costs on Medicaid by State (Millions of Dollars) Fiscal Year 2012									
State	Medicaid Spending	Percent of Medicaid Spending	Smoking Costs on Medicaid	State	Cigarette Tax Collections	Tobacco Settlement Payments	Smoking Costs on Medicaid as a Percent of State Cigarette Tax Collections	State	Smoking Costs
United States	415,154	11%	46,667	United States	127,236	2,180	45,667	United States	496,878
Alabama	5,027	9%	452	Alabama	126	94	452	New York	124.7
Alaska	1,348	15%	302	Alaska	67	30	124	California	72.4
Arizona	7,905	18%	1,423	Arizona	319	101	1,423	Texas	28.3
Arkansas	4,160	11%	455	Arkansas	347	51	455	Massachusetts	24.0
California	50,165	11%	5,315	California	596	736	5,315	Florida	33.2
Colorado	4,724	17%	803	Colorado	203	91	803	Ohio	21.7
Connecticut	6,759	7%	473	Connecticut	435	124	473	Pennsylvania	17.7
Delaware	1,465	10%	145	Delaware	32	27	145	New Jersey	15.8
District of Columbia	2,111	11%	252	District of Columbia	36	38	252	Louisiana	14.4
Florida	17,907	11%	1,970	Florida	381	365	1,970	North Carolina	13.9
Georgia	8,526	10%	553	Georgia	227	141	553	Illinois	13.3
Hawaii	1,493	11%	164	Hawaii	122	49	164	Tennessee	12.9
Idaho	1,452	14%	203	Idaho	48	35	203	Michigan	12.5
Illinois	13,393	11%	1,473	Illinois	606	274	1,473	Minnesota	12.4
Indiana	7,486	15%	1,123	Indiana	465	139	1,123	Alabama	11.6
Iowa	3,495	10%	350	Iowa	225	66	350	Connecticut	10.7
Kansas	2,667	13%	320	Kansas	164	58	320	Missouri	9.4
Kentucky	5,702	12%	684	Kentucky	277	102	684	Indiana	8.3
Louisiana	7,358	13%	593	Louisiana	133	141	593	Virginia	7.8
Maine	2,413	14%	335	Maine	140	51	335	Mississippi	7.2
Maryland	7,687	12%	922	Maryland	411	146	922	Kentucky	7.1
Massachusetts	12,926	11%	1,402	Massachusetts	574	254	1,402	Minnesota	7.1
Michigan	12,460	13%	1,523	Michigan	965	267	1,523	South Carolina	7.0
Minnesota	\$894	11%	976	Minnesota	422	167	976	Nevada	6.6
Mississippi	4,466	9%	492	Mississippi	157	110	492	Arkansas	6.3
Missouri	8,727	14%	1,227	Missouri	105	133	1,227	Oklahoma	6.3
Montana	973	13%	146	Montana	87	30	146	Wisconsin	6.3
Nebraska	1,722	13%	258	Nebraska	68	38	258	Washington	5.0
Nevada	1,739	11%	191	Nevada	103	40	191	Arizona	4.9
New Hampshire	11,887	15%	173	New Hampshire	215	43	173	Colorado	<

# FDA Deeming Regulations

- The FDA admits that not regulating new products like e-cigarettes may induce people to switch to products that the FDA do not regulate at all or with the same “stringency”. So not regulating would imply a benefit and the proposed rule will cause harm.
- In the RIA Benefit Analysis, FDA anticipates that “the largest benefit of the proposed provisions would be the improvements in health and life expectancy resulting from reduction in the use of combustible tobacco products deemed under this proposed rule” These benefits will be reduced by the simple fact that electronic cigarettes are not combustible tobacco products and provide a safer alternative.
- In section 2(b) of the RIA, “Electronic Cigarettes and Other Non-combustible, Novel Tobacco Products” FDA plainly states: “The benefits of including electronic cigarettes in this proposed rule are unknown and therefore cannot be quantified (page

# Conclusion

- Ultimately, the FDA not having regulatory power over the electronic cigarette industry would be ideal for business owners and consumers alike. We are not against reasonable, rational regulation however being lumped together with combustible cigarettes does not allow for our unique industry to flourish nor does it recognize the significant health benefits to consumers having access to a variety of tobacco harm reduction options and devices.
- Should the FDA move forward with full PMTA, we would hope the industry would have a minimum of 2 to 3 years to comply with requirements, once the requirements are clearly defined.
- Only 2-3 companies marketed vapor products before the grandfather date of February 15, 2007 guaranteeing Substantial Equivalence (SE) Reports cannot be submitted to the FDA, creating a de-facto ban of >99.9% of the vapor product manufacturers in the US. Further the SE process is opaque and entirely arbitrary, denying participants the ability to pre-plan, coordinate, or ensure they could comply (if it were ever available to them). Please support H.R. Bill 2058
- Our industry has been on notice for over a year that these regulations are coming and we have been waiting to find out what e-cigarette-specific PMTA requirements are so that we may prepare. There is a considerable difference between expedited EU-like requirements, which take months to prepare for, vs, full PMTA, which takes years.